

**Steve Mihalchick**

---

**From:** camp [camp@arvig.net]  
**Sent:** Sunday, November 29, 2009 8:46 PM  
**To:** Steve Mihalchick  
**Subject:** Mesaba Siting Comments  
**Attachments:** Final Environmental Impact Statement Comments, CAMP.pdf

Judge Mihalchick,

Please accept the attached comments regarding the Mesaba Energy Project (DOE/EIS-0382; MN PUC Docket # E6472/GS-06-668) on behalf of Citizens Against the Mesaba Project.

Thank you,

Ed Anderson, Co-Chair  
Citizens Against the Mesaba Project

11/30/2009

*Public Comment on FEIS 5*

**Citizens Against the Mesaba Project (CAMP)**  
**PO Box 583, Grand Rapids, MN 55709**

**To: Administrative Law Judge Steve M. Mihalchick**

**From: Ed Anderson**

**Co-Chair, Citizens Against the Mesaba Project**

**Re: PUC Docket No. E6472/GS-06-668**

**OAH Docket No. 12-2500-17512-2**

**November 29, 2009**

**Comments on Adequacy and Impact: DOE Final EIS (FEIS) for the  
Mesaba Energy Project**

**Overview:**

The purpose of the initial scoping was supposed to ensure that the Final EIS is complete and to identify areas of local concern. Instead, it appears that the overall objective of this document is to minimize the adverse environmental impacts, push a federal policy for "clean coal", and facilitate a project that has no hope of ever realizing the DOE objectives outlined in the Clean Coal Power Initiative.

This project is in serious financial jeopardy and has been determined to not be significantly cleaner than other coal plants with state of the art emissions control technology. The FEIS also states quite clearly that Carbon Capture and Sequestration (CCS) is not feasible for this plant, so the DOE would allow MEP I to release 5 million tons/year of carbon dioxide into the atmosphere if this plant is built. Other projects receiving DOE funding have leapfrogged ahead of the MEP. This project is not necessary to demonstrate IGCC technology. The MEP cannot demonstrate CCS which is the main touted advantage of IGCC. The MEP truly is just another coal plant with a complex financing scheme designed to place the public at huge financial risk.

Review of the Final Environmental Impact Statement prepared by the Department of Energy (DOE) and the MN Department of Commerce (DOC) finds that both public and agency concerns continue to be inadequately addressed. Volume 3 of the FEIS contains hundreds of pages of public comment, almost all of which relate to adverse impacts and/or inadequacies in the document. Public and agency comments from the JPA scoping were not adequately addressed and not carried through to the Draft EIS, and comments from the DEIS were not addressed and not carried forward to the FEIS. This has resulted in virtually all of the public input being

dismissed and buried under many layers of bureaucratic nonessential verbiage. The Joint Permit Application was actually a better representation of the project and its impact than the FEIS. The DOE and DOC have brought us further from the truth with each version of the EIS. It is unbelievable that of the hundreds of comments received, virtually every concern voiced by the public is minimized, not adequately addressed, or simply ignored. This pattern is readily apparent by reading through the DEIS and FEIS responses to public comment.

The quality of the public comments has been outstanding. These comments have been compiled by citizens with a wide range of expertise including biology, forestry, mechanical and aeronautical engineering, economics, medicine, law, accounting, hydrology, and geology. These experts, along with teachers, business executives, small business owners, mine and mill workers, artists, farmers, retirees, and many other individuals from various walks of life have spent countless hours analyzing the JPA and DEIS.

#### Bias of the Department of Energy

This FEIS is not designed to show the actual environmental impact of the MEP. Instead it focuses on minimizing the adverse impacts in order to facilitate the project. The DOE has publicly supported the Mesaba Energy Project on several occasions through different media sources. It is stated in the EIS in the Summary Section, DOE Purpose and Need; "DOE's purpose in considering the Proposed Action (to provide cost-shared funding) is to meet the goal of the CCPI Program (NETL, 2006b) by demonstrating the commercial readiness of the Conoco-Phillips E-Gas™ gasification technology in a fully integrated and quintessential IGCC utility-scale application. The principal need addressed by DOE's Proposed Action is to accelerate the commercialization of clean coal technologies that achieve greater efficiencies, environmental performance, and cost-competitiveness." The DOE has also supported the project with \$36 million of public money as stated in Section 2.1.1.1 of the draft EIS. The DOE also remarks that it may continue to support the project through a federal loan guarantee program.

The Department of Energy has shown considerable bias toward the Mesaba Project and has ignored citizen and other governmental agency comments and concerns regarding environmental impacts. If the true impact of the Mesaba Project is to be known, it seems clear that an Environmental Impact Statement needs to be compiled without DOE involvement.

Although we believe the DOE's objectives related to their Clean Coal Power Initiative are misdirected, they do appear to be clear. The DOC objectives are not quite as clear. The DOC mission statement includes "ensuring equitable commercial and financial transactions, reliable utility services, and advocating the public's interest before the PUC". The Mesaba Project does not appear to meet

the DOE & DOC objectives by any stretch of the imagination. We certainly don't feel that the DOC is advocating in the public's interest. This is the wrong project, and it's in the wrong place. The public deserves to have their concerns and comments taken seriously. We hope you'll show us that you really do value public input, and demonstrate that in your recommendation.

#### **Deficiencies of the Final EIS:**

In addition to public comments which have been ignored, agencies such as the Army Corps of Engineers, MPCA, and the MN DNR also submitted numerous comments over a wide variety of issues. These issues included Excelsior's unverified claims of need for power, site selection, water discharge and mercury deposition, air emissions, and impact on the CMP trout fishery and local recreation to name just a few. Although the FEIS does address some of the more minor concerns of the ACOE regarding alternative site selection, many of the agency comments have not been addressed at all, and others have been addressed inadequately.

For example, the ACOE voiced concern that the West Range site is in an environmentally sensitive location, and is an area "rich in aquatic resources". The ACOE also noted that nothing in the EIS "need and purpose" validates the claim that this plant must be built in the Taconite Tax Relief Area, and further noted that they were not convinced the West Range Site is the least environmentally damaging alternative. The ACOE concerns are minimally and insufficiently addressed in the FEIS.

In another agency example, the FEIS claims that the CMP trout fishery issues are resolved by implementing ZLD, yet goes on to say that the project proponents and the MN DNR will need to work out an agreement to keep the lake open for recreational use. The report makes no mention of the fact that Excelsior Energy's proposed ZLD system has yet to be designed and engineered, and that this design information has previously been requested by the MPCA. This includes almost a full page of yet unanswered questions under the MPCA DEIS comments section 4.5.2.1 ZLD. Specifics on the ZLD system are critical to analyzing air and water impacts, and according to the MPCA are essential for permitting.

Additionally, Best Available Control Technology (BACT) is not in Excelsior's plan despite previously being pointed out by the MPCA. The FEIS just makes mention of this and "punts" it to the Minnesota Pollution Control Agency. Obviously, further substantial changes to Excelsior's plan will have to be made if this plant has any hope of obtaining the numerous environmental permits needed.

There also continues to be a double standard whereby Excelsior Energy is allowed to make unsubstantiated claims such as need for power and positive economic impact, yet when such claims are challenged, the FEIS states that it is "not within

the scope of the FEIS” or the reader is simply referred back to another section of the FEIS which also does nothing to address the question.

Agencies such as the Minnesota DNR, MPCA, MDH, and Department of the Interior have all reviewed the Draft EIS and found multiple areas of concern. Many of these concerns were submitted during the scoping process but were not addressed. When we read through all of these comments, it is obvious that Excelsior Energy has done an inadequate job of putting this proposal together. Public and agency comments with regard to siting and routing show that there are serious environmental concerns at both the East Range and West Range Sites.

#### **Deficiencies of the Applicant:**

The deficiencies of the Applicant are increasingly evident and were quite apparent at the January 2008 hearing in Taconite. Excelsior’s own experts had difficulty answering basic questions raised by CAMP and other members of the public. Excelsior stated they would provide additional information to clarify issues raised at these meetings, yet no information has been provided to clarify the questions raised. Some specific questions to which Excelsior was to provide further information are outlined in CAMP’s previous comments to Judge Mihalchick submitted in this docket January 29<sup>th</sup>, 2008.

Excelsior Energy has done a poor job of anticipating permitting needs from the start, beginning with the initial site selection on the East Range. It changed the “preferred site” to the West Range to avoid implementing expensive pollution control measures for discharged water, and because it finally realized air permits would be difficult if not impossible to obtain on the East Range. Since then, Excelsior has been forced to use the same expensive control technology at the West Range, and permitting is still problematic. In this respect, the MEP really does not even have an alternative site option. This is a blatant failure on the part of Excelsior Energy, and their ongoing failure to adequately plan and anticipate should not mean that siting is approved for a more environmentally sensitive site without existing infrastructure, especially when many valid government agency and public comments remain unanswered.

It is also apparent that Excelsior Energy is more than willing to make false and/or misleading statements as to the actual impacts of this project. We have seen numerous examples of this over the past several years. One more recent example is that Excelsior would have been unable to obtain water discharge permits with their original proposal. Bob Evans repeatedly denied the fact that water quality would be negatively impacted due to discharge of cooling tower blowdown. His misinformation and avoidance of the facts happened repeatedly during the Citizen’s Advisory Task Force, and has continued throughout the EIS process. Senator Saxhaug was quoted in Excelsior’s ZLD press release as saying “Excelsior didn’t

have to do this to get licenses, but they have agreed to do all they could to demonstrate they intend to be good environmental stewards. This is a very promising development.” Excelsior has fought hard to avoid eliminating water discharge and has repeatedly shown us that the focus is on dollars, not environmental stewardship. ZLD is extremely expensive to implement, and will mean a loss of efficiency with regard to power output. A major reason Excelsior changed their preferred site to the West Range was because the East Range site required ZLD due to the more stringent mercury criteria of the Lake Superior watershed.

The reality is that completely eliminating water discharge is the only way they can proceed. If Excelsior Energy really had intentions of being environmental stewards and wanted to “mitigate environmental impacts”, measures such as ZLD and carbon dioxide capture and sequestration would have been in the plan from the beginning.

Whether this type of misinformation shows us a determined willingness to misrepresent the truth or reveals Excelsior Energy’s inability to anticipate basic environmental impacts and permitting requirements is unclear. What is clear is Excelsior Energy’s inability to properly design and site this project

### Site Selection

The most important factor in both site selection and environmental impact should be the impact on humans. The FEIS is notably different from the DEIS in that a large section of the FEIS now discusses the potential impact on the gray wolf and Canada lynx. There appears to be more emphasis on threats to animal populations than is given to the human impact. Acceptable health risks, noise and traffic impacts, air quality etc. are discussed, but nowhere in this process has anyone asked “who wants this”? Certainly Excelsior Energy wants this. The DOE and DOC want this. Some area business leaders want this. It appears that there is little opposition to this plant at the East Range site, although that might change if people actually believed it may go there.

In contrast, there is tremendous opposition to the Mesaba Project on the West Range. Over a 2-3 month petition drive in 2006, CAMP collected over 900 signatures in opposition to this project. Local politicians were openly supportive early on, then learned that this is such a political hot potato that their open public support essentially dried up with one exception who apparently doesn’t have his finger on the pulse of his constituency. The state representative in whose district this plant would be built is adamantly in opposition to the Mesaba Project. The vast majority of public comments for the JPA scoping, DEIS, and Siting docket are in opposition to this project. Even the chair of the PUC at one time said this project is in the wrong place. Opponents to this project have filled the rooms during public meetings on the West Range and in St. Paul at the PUC. Just as the FEIS hands off

critical issues such as BACT to the MPCA instead of requiring Excelsior to have it in their plan from the start, the various governmental agencies have been reluctant to kill this project. There has been ample opportunity at several levels to say "enough is enough". No one agency has yet had the fortitude to say "this is a bad idea", and then act on it. It is well past time to end Excelsior's attempt to place a bad project in the wrong place, and we hope that will now occur in this docket.